

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	Case No.
)	
ANTHONY FRANK MONDELLO,)	
)	
Defendant.)	

INFORMATION

The United States Attorney charges:

INTRODUCTION

1. Microsoft is the manufacturer of the Xbox game console and is also a video game developer and publisher. Microsoft maintains certain rights under U.S. copyright and trademark law to protect its intellectual property, including video game titles, artwork, characters, and the games themselves.
2. The video game or “gaming” community uses certain terms:
 - a. “Circumvention device” commonly refers to software designed to bypass, avoid, remove, deactivate, or impair a technological measure that controls access to or use of a protected work without the authority of the copyright owner.
 - b. “ROM” is generally understood in the gaming community to refer to a pirated or unauthorized copy of a video game that consists of a read-only

memory file or image. ROMs can be played on consoles or through circumvention devices or “emulators.”

c. “Emulator” refers to a hardware device or software program that enables a computer system to mimic the function of another computer system.

d. “Mod Chip” is referred to a physical device that can be used to circumvent technological measures on gaming consoles.

e. “Pirated” refers to the unauthorized and illegal reproduction or distribution of works protected by U.S. copyright or trademark law. Pirated software is protected software that has been copied, modified, used, or sold without permission. Software piracy denies copyright holders of due compensation for use of their creative works.

f. “Home Brew” is a term created by the gaming community that refers to added functions on gaming consoles beyond the parameters set by the hardware manufacturer. Home brew can include expansions to the functions of the console that allow the device to do more than just play games and may also include games that can be played on modified consoles.

3. To protect their intellectual property against video game piracy, console manufacturers implement technological measures within the consoles that prevent the use of unauthorized firmware or the playing of pirated video games. Console

manufacturers also use authentication processes to detect if a console is playing a counterfeit game when the console connects to a manufacturer's server.

4. At all times relevant to this Information, the defendant, **ANTHONY FRANK MONDELLO**, was a resident of Jefferson County, in the Northern District of Alabama. The defendant owned "Tony Mondello's RGH Sales – Gardendale Garage," a Facebook page and YouTube channel where he posted videos of Xbox consoles that he modified using mod chips and circumvention devices, which allowed users to play pirated versions of copyrighted video games or ROMs.

COUNT ONE
Conspiracy to Circumvent Technological Measures and to
Traffic in Circumvention Devices
(18 U.S.C. § 371)

5. The factual allegations set forth in Paragraphs 1 through 4 of this Information are re-alleged and incorporated as if fully set forth herein.

6. From at least in or about April 2018 through at least in or about March 2023, in Jefferson County, within the Northern District of Alabama, and elsewhere, the defendant,

ANTHONY FRANK MONDELLO,

did knowingly and willfully combine, conspire, confederate, and agree with others, known and unknown, to commit offenses against the United States, that is:

a. To knowingly and willfully, for the purpose of private financial gain, circumvent a technological measure that effectively controls access to a work

protected under Title 17 of the United States Code, in violation of Title 17, United States Code, Sections 1201(a)(1)(A) and 1204(a)(1); and

b. To knowingly and willfully, for the purpose of private financial gain, traffic in a technology, product, service, and device that was primarily designed and produced for the purpose of circumventing a technological measure that effectively controlled access to a work protected under Title 17 of the United States Code, in violation of Title 17, United States Code, Sections 1201(a)(2)(A) and 1204(a)(1).

PURPOSE OF THE CONSPIRACY

7. It was a purpose of the conspiracy to generate revenue from the distribution and sale of modified Xbox consoles containing circumvention devices and to frustrate Microsoft's efforts to protect its intellectual property.

MANNER AND MEANS OF THE CONSPIRACY

8. It was part of the conspiracy that the defendant, **ANTHONY FRANK MONDELLO**, provided modified Xbox consoles to customers that contained circumvention devices, ROMs, Emulators, Mod Chips, and pirated video games.

9. It was further part of the conspiracy that the defendant, **ANTHONY FRANK MONDELLO**, loaded dozens of pirated video games and ROMS onto Xbox consoles that he modified for customers.

10. It was further part of the conspiracy that modified consoles were mailed via the United States Postal Service to individuals across the United States.

11. It was further part of the conspiracy that the defendant, **ANTHONY FRANK MONDELLO**, charged customers approximately \$250 for each modified console, which included pirated video games that retailed at higher prices.

12. It was further part of the conspiracy that the defendant, **ANTHONY FRANK MONDELLO**, facilitated the sales of modified or hacked Xbox consoles through YouTube, Facebook, and his website, [https://customxboxes\[.\]com](https://customxboxes[.]com).

13. It was further part of the conspiracy that the business accepted payments from customers for modified consoles via PayPal, using an account opened in the name “Alliance Electronics.”

OVERT ACTS

In furtherance of the conspiracy, and to achieve the objects thereof, the defendant did commit and cause to be committed the following acts, which occurred in Jefferson County, in the Northern District of Alabama, and elsewhere:

14. On or about December 6, 2018, an undercover agent working with the FBI purchased a modified Xbox console from the defendant, **ANTHONY FRANK MONDELLO**. The total purchase price, including shipping, was \$262.26. Payment was remitted to the defendant through PayPal.

15. On December 14, 2018, the defendant, **ANTHONY FRANK MONDELLO**, posted a video to YouTube that detailed the undercover agent's Xbox console. The video featured emulators, home brew, and contained hundreds of pirated video games. In the video, the defendant, **ANTHONY FRANK MONDELLO**, provided instructions to the purchaser regarding how to authenticate the console on the internet to bypass the anti-piracy features installed by Microsoft.

16. On or about December 8, 2021, the defendant, **ANTHONY FRANK MONDELLO**, posted a video on Facebook live titled "Allrighty Guys welcome to another session of hack my console and set it free with madman Mondello," which featured footage of several Xbox consoles that the defendant had modified to include pirated video games and ROMs that were being shipped to customers.

17. On or about February 13, 2023, an undercover agent working with the FBI purchased a modified Xbox console via customxboxes[.]com, the website owned by the defendant, **ANTHONY FRANK MONDELLO**. The total cost of the modified console was \$274.85, including shipping.

18. On or about February 13, 2023, the defendant, **ANTHONY FRANK MONDELLO**, received payment via PayPal of \$274.85 for the undercover agent's purchase of the modified Xbox console.

All in violation of Title 18, United States Code, Section 371.

NOTICE OF FORFEITURE

1. The allegations contained in Count One of this Information is re-alleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(2)(A), and Title 28, United States Code, Section 2461(c).

2. Upon conviction of a violation of Title 18, United States Code, Section 371, as alleged in this Information, the Defendant shall forfeit to the United States any property constituting, or derived from, any proceeds the Defendant obtained, directly or indirectly, as the result of such violation pursuant to Title 18, United States Code, Section 982(a)(2)(A).

3. If any of the property subject to forfeiture, because of any act or omission of the Defendant:

- a. cannot be located upon the exercise of due diligence;
 - b. has been transferred or sold to, or deposited with, a third party;
 - c. has been placed beyond the jurisdiction of the Court;
 - d. has been substantially diminished in value; or,
 - e. has been commingled with other property which cannot be divided
- without difficulty, the United States shall be entitled to the forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p).

All pursuant to Title 18, United States Code, Section 982(a)(2)(A), and the procedures set forth in Title 21, United States Code, Section 853, as incorporated by Title 18, United States Code, Section 982(b)(1).

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